



## **CORPORATION FOR NATIONAL AND COMMUNITY SERVICE**

### **45 CFR Parts 2520, 2521 and 2522**

**RIN 3045-AA84**

#### **AmeriCorps State and National Updates**

**AGENCY:** Corporation for National and Community Service.

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The Corporation for National and Community Service (operating as AmeriCorps) proposes to revise its regulations governing the AmeriCorps State and National program. This proposed rule would make four substantive changes to the regulations governing the AmeriCorps State and National program to provide programmatic and grantmaking flexibilities. Specifically, this proposed rule would: limit AmeriCorps State and National grantees' required share of program costs (known as "match" or "cost share") to a scale that starts at 24 percent for the first three-year grant cycle and increases more incrementally with each successive three-year grant cycle, until it reaches 50 percent in the sixth three-year grant cycle (that is, the sixteenth year of the grant) and beyond; simplify the criteria that allow AmeriCorps to waive match for AmeriCorps State and National grantees; allow AmeriCorps to grant waivers of education hour limitations under certain circumstances to permit AmeriCorps State and National AmeriCorps members to spend an increased number of hours on education and training activities; and remove the four-term limit on service in AmeriCorps State and National programs, instead referring to the limitation on total value of the Segal Education Awards (education awards) a member may earn. The main non-substantive change in this proposed rule updates nomenclature to reflect that the Corporation for National and Community Service operates as AmeriCorps.

**DATES:** Written comments must be submitted by [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

**ADDRESSES:** Please send your comments electronically through the Federal government's one-stop rulemaking website at *www.regulations.gov*. Alternatively, you may send your comments to Elizabeth Appel, Associate General Counsel, at *eappel@cns.gov* or by mail to AmeriCorps (ATTN: Elizabeth Appel), 250 E Street SW, Washington DC 20525.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth Appel, Associate General Counsel, at *eappel@cns.gov*, (202) 967-5070.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

AmeriCorps is proposing changes to its AmeriCorps State and National program regulations based on its desire to address stakeholder feedback on match requirements, be more consistent with other grant programs within the agency, and reduce barriers to grantee organizations specifically designed to provide education and training to members as part of their national service program. AmeriCorps State and National provides grants to states, territories, Indian tribes, public and private nonprofit organizations, local governments, and institutions of higher education to carry out national service programs, offering a wide range of service opportunities. AmeriCorps State and National also provides general operating funding for state service commissions. AmeriCorps is proposing these changes under the authority of the National and Community Service Act, as amended, at 42 U.S.C. 12651c(c).

**II. Overview of Proposed Rule**

This proposed rule would make four substantive changes to the AmeriCorps State and National regulations, as described below. In addition, this proposed rule would make nomenclature changes to add a definition for “AmeriCorps” and change “the

Corporation” to “AmeriCorps” throughout these regulations to reflect that the Corporation for National and Community Service now operates as AmeriCorps.

**A. Waiver of the Current 20 Percent Limit on Education and Training Activities - § 2520.50**

The current regulation sets a 20 percent limit to the aggregate total of all AmeriCorps member service hours in a program that may be spent in education and training activities. As a result, each program must have at least 80 percent of the aggregate of all AmeriCorps member hours in service. The proposed rule would allow AmeriCorps to waive this limit under certain circumstances, to allow up to 50 percent of the aggregate AmeriCorps member hours in a program to be spent in education and training activities. The criteria AmeriCorps will consider when deciding whether a waiver is appropriate are whether the AmeriCorps program:

- is a Registered Apprenticeship program, or
- is a job training or job readiness program, or
- includes activities to support member attainment of a GED or high school diploma or occupational, technical, or safety credentials, or
- the AmeriCorps program primarily enrolls economically disadvantaged AmeriCorps members and is designed to provide soft skills or life skills development for those members.

This proposed rule would allow individuals who might benefit from additional education and training, such as those reentering society after incarceration, to participate in national service while acquiring skills and knowledge to ease their transition.

The current regulation creates a significant barrier to entry for workforce development/Registered Apprenticeship programs and results in their participants being unable to get credit for a large portion of their hours. Programs with full-time participants are only able to offer “less than full-time” AmeriCorps member slots, which limits the

amount of the education award available to their participants and could limit their participants' access to health care, childcare, and other benefits afforded to members enrolled in full-time slots.

AmeriCorps expects to grant waivers to new and existing Registered Apprenticeship programs, job training or job readiness programs, programs that include activities to support member attainment of a GED or high school diploma or other credentials, or programs that primarily enroll economically disadvantaged AmeriCorps members and are designed to provide soft skills or life skills development for those members. Grantees would request waivers in writing as part of their grant application. Decisions about the waivers would be provided prior to grant award. As most of the programs that would benefit from this waiver have participants who are serving in the program full time but may only serve part-time as AmeriCorps members because of the current limits on in-service educational time, there is no expectation that the level of service provided to communities would decline. While the level of service provided to communities is expected to remain constant under this proposal, participants would benefit because they could count the majority of their existing training hours toward earning a larger education award.

#### **B. Revising Match Requirements - § 2521.60**

This proposed rule would revise the scale that sets out grantees' program costs not provided by AmeriCorps (known as "match" or "cost share"). The current regulations require a graduated match that incrementally increases each year to a total of 50 percent overall share by the tenth year and for each year afterward without a break in funding of five years or more. The proposed rule would establish a match that gradually increases at the end of each three-year grant period (rather than annually) over a longer period of time to reach a total of 50 percent overall share by the sixteenth year (rather than by the tenth year) and for each year afterward without a break in funding of five years or more.

This proposed change is intended to address the increased difficulty many grantees experience in raising match funds, as evidenced by the increase in waiver requests AmeriCorps receives, and address many of the comments AmeriCorps received in response to the Request for Information from Non-Federal Stakeholders: Grantee Match Requirements (RFI) it published in 2022. *See* 87 FR 26740 (May 5, 2022). Waiver requests have increased significantly since 2017 and 2018. From March 2022 to March 2023, AmeriCorps received more than 60 requests for full or partial waivers of AmeriCorps State and National match requirements, meaning that requests have been submitted for more than 7 percent of AmeriCorps State and National cost-reimbursement grants. Many of the respondents to the RFI stated that they have difficulty securing match and that current match requirements are a barrier to equity and limit people’s ability to serve. These respondents specifically proposed a return to “original Congressional intent” as evidenced by language in the National and Community Service Act of 1990 providing that AmeriCorps’ share may not exceed 75 percent. For several years, Congress has, through appropriations laws, provided that AmeriCorps programs receiving grants under the National Service Trust program must meet an overall minimum match of 24 percent for the first three years of receiving funding, and then must meet the overall match requirements in section 2521.60 of the current regulations. *See, e.g.,* Consolidated Appropriations Act, 2022, Pub. Law. 117-103, Section 402. The current regulations at section 2521.60 set out a graduated match schedule in which the required match increases from 26 percent as of the fourth consecutive year they receive a grant to 50 percent as of year 10 and beyond for the total budget. This requires grantees to match the AmeriCorps’ investment one-to-one once they reach year 10 and beyond.

AmeriCorps proposes a match that increases more gradually until it reaches 50 percent of the overall program cost by the sixteenth year to replace the current regulations’ more abrupt and steep match scale. A match that increases less often (by

grant period, rather than annually) would reduce the burden on grantees of raising, tracking, and reporting increasing annual percentages. While some grantees can raise the currently required additional match for years five and beyond (ranging from 30 percent to 50 percent), it is a barrier for other existing grantees that are smaller or in geographic areas where there is not a philanthropic community. It is also a barrier to entry for new applicants that have less capacity and less access to matching funds. Lowering the match amount does not change the cost to run a strong AmeriCorps program. Thus, grantees will continue to have to raise additional funds beyond the required match generally, for the sustainability of their organization, but they will no longer be in danger of having to return AmeriCorps funds at the end of their grants if they fail to raise match that is so far in excess of the 25 percent indicated by statutory text. To the extent they are able, grantees are strongly encouraged to raise funding beyond the required match amount to extend the reach of national service as much as possible.

### **C. Criteria for Waiving Match Requirements - § 2521.70**

This proposed rule would revise the criteria that grantees must demonstrate when they request a waiver of the matching requirements. Currently, the regulation requires grantees to demonstrate: (1) a lack of resources at the local level; (2) that the lack of resources is unique or unusual; (3) the efforts the grantee has made to raise matching resources; and (4) the amount of matching resources the grantee has raised or reasonably expects to raise. The proposed rule would instead specify four criteria and require grantees to demonstrate only one of them, and in addition provide supporting documentation and a description of the efforts made to raise match. The proposed waiver criteria mirror the waiver criteria required in AmeriCorps Seniors programs, with one additional criterion to allow waivers for organizations with revenue of less than \$500,000. Specifically, under the proposed rule, grantees would have to demonstrate one of the following: initial difficulties in developing local funding sources during the first

three years of operations; an economic downturn, natural disaster, or similar event in the grantee's service area that severely restricts or reduces sources of local funding support; the unexpected discontinuation of local support from one or more sources that a project has relied on for a period of years; or an organizational revenue of less than \$500,000.

The current regulations' waiver requirements are overly burdensome to grantees and enhance the risk that AmeriCorps funds will not be fully expended because grantees must return AmeriCorps funds at closeout if they do not meet the match requirement or receive a waiver. The proposed waiver criteria reduce this burden. Furthermore, the agency desires to have more consistency between its programs, and the proposed change aligns AmeriCorps State and National's match waiver criteria with AmeriCorps Seniors' match waiver criteria, with one additional criterion. The additional criterion, for organizations with less than \$500,000 in revenue (as shown on an IRS Form 990, for example) is intended to encourage new, small organizations and those with programs in underserved communities. The proposed rule would still require a description of efforts made to raise matching resources but clarifies that this description must be provided with the waiver request.

#### **D. Limit on Number of Terms an Individual May Serve in AmeriCorps State and National - § 2522.235**

The current regulation provides that individuals who serve in AmeriCorps State and National may receive the benefits offered by AmeriCorps for serving up to, but not more than, four terms. It also includes information on how terms are calculated if an individual is released early under various circumstances. The benefits offered to AmeriCorps members include the AmeriCorps Segal Education Award from the National Service Trust upon successful completion of their terms of service. Benefits during service include a living allowance, financial benefits during an extended term of disaster-related service, childcare, and health care.

Separate regulations at 45 CFR 2525.50 limit participants to receiving no more than the value of two full-time education awards. The proposed rule would remove the four term limit, thus allowing any individual to serve as many terms as necessary to earn the value of two full-time education awards, regardless of whether those terms are served on a full-time, part-time, or reduced part-time basis. This revision removes an artificial barrier on individuals' ability to continue to serve.

In 2010, AmeriCorps established the four-term limit in the current regulations to ensure that there would be opportunities for all interested Americans to serve because, at the time, applications for AmeriCorps far exceeded available positions. *See* 75 FR 51395, 51406-07 (August 20, 2010). An excess demand for AmeriCorps positions no longer exists to justify this term limit. Even accounting for the possibility that demand will at some point exceed the number of AmeriCorps positions available, the current regulation's term limit is too broad a prohibition. Service terms vary considerably, encompassing full-time, part-time, reduced part-time, quarter-time, and minimum-time terms, as well as any term from which one exits after serving 15 percent of the agreed term of service. Treating each of these terms of service as equivalent for the purposes of a term limit is unfair to those who may have served shorter terms of service but would like to serve more. Individuals should be encouraged, rather than discouraged, from participating in national service. AmeriCorps believes a term limit is unnecessary, as there is already an existing limit to education awards – a significant incentive for participation in national service.

### **III. Regulatory Analyses**

#### **A. Executive Orders 12866 and 13563**

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental,

public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Information and Regulatory Affairs in the Office of Management and Budget has determined that this proposed rule is not a significant regulatory action.

#### **B. Regulatory Flexibility Act**

As required by the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*), AmeriCorps certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. Most AmeriCorps State and National grantees are State Commissions and organizations that do not meet the definition of a small entity. Therefore, AmeriCorps has not performed the initial regulatory flexibility analysis that is required under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) for rules that are expected to have such results.

#### **C. Unfunded Mandates Reform Act of 1995**

For purposes of Title II of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531-1538, as well as Executive Order 12875, this regulatory action does not contain any Federal mandate that may result in increased expenditures in Federal, State, local, or Tribal Governments in the aggregate, or impose an annual burden exceeding \$100 million on the private sector.

#### **D. Paperwork Reduction Act**

Under the PRA, an agency may not conduct or sponsor a collection of information unless the collections of information display valid control numbers. The application for AmeriCorps State and National grants are authorized under OMB Control Number 3045-0047, which expires September 30, 2026. Applicants for grants who would like to request a waiver under this proposed rule would do so as part of the application process, but the request is exempted from the definition of “information” subject to PRA requirements

because it is a simple acknowledgment that the applicant is requesting a waiver based on one of the criteria. *See* 5 CFR 1320.3(h)(1). Therefore, this proposed rule does not affect require submission of a revision of this information collection.

#### **E. Executive Order 13132, Federalism**

Executive Order 13132, Federalism, prohibits an agency from publishing any rule that has federalism implications if the rule imposes substantial direct compliance costs on State and local Governments and is not required by statute, or the rule preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive Order. This rulemaking does not have any federalism implications, as described above.

#### **F. Takings (Executive Order 12630)**

This proposed rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630 because this proposed rule does not affect individual property rights protected by the Fifth Amendment or involve a compensable “taking.” A takings implication assessment is not required.

#### **G. Civil Justice Reform (Executive Order 12988)**

This proposed rule complies with the requirements of Executive Order 12988. Specifically, this rulemaking: (a) meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and (b) meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

#### **H. Consultation with Indian Tribes (Executive Order 13175)**

AmeriCorps recognizes the inherent sovereignty of Indian tribes and their right to self-governance. We have evaluated this rulemaking under our consultation policy and the criteria in Executive Order 13175 and determined that this proposed rule does not impose substantial direct effects on federally recognized Tribes.

## **I. Clarity of this Regulation**

We are required by Executive Orders 12866 (section 1(b)(12)), and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each proposed rule we publish must: (a) be logically organized; (b) use the active voice to address readers directly; (c) use clear language rather than jargon; (d) be divided into short sections and sentences; and (e) use lists and tables wherever possible. If you feel that we have not met these requirements, please send us comments by one of the methods listed in the ADDRESSES section. To help us revise the rule, your comments should be as specific as possible.

### **List of Subjects**

#### **45 CFR Part 2520**

Grant programs-social programs, Volunteers.

#### **45 CFR Part 2521**

Grant programs-social programs, Volunteers.

#### **45 CFR Part 2522**

Grant programs-social programs, Reporting and recordkeeping requirements, Volunteers.

For the reasons stated in the preamble, under the authority of 42 U.S.C. 12651c(c), the Corporation for National and Community Service is proposing to amend Chapter XXV, title 45 of the Code of Federal Regulations as follows:

### **PART 2520 - GENERAL PROVISIONS: AMERICORPS SUBTITLE C PROGRAMS**

1. The authority citation for part 2520 continues to read as follows:

Authority: 42 U.S.C. 12571-12595.

2. Amend § 2520.5 by adding in alphabetical order the definition “AmeriCorps” to read as follows:

**§ 2520.5 What definitions apply to this part?**

*AmeriCorps* means the Corporation for National and Community Service, established pursuant to section 191 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12651, which operates as AmeriCorps.

\* \* \* \* \*

**§§ 2520.10 through 2520.65 [Amended]**

3. In §§ 2520.10 through 2520.65, remove the words “the Corporation” wherever they appear and add in their place the word “AmeriCorps”.

4. In §§ 2520.10 through 2520.65, remove the word “Corporation” and add in its place the word “AmeriCorps”.

5. Amend § 2520.50 by, revising paragraph (a) and adding new paragraph (c) to read as follows:

**§ 2520.50 How much time may AmeriCorps members in my program spend in education and training activities?**

(a) No more than 20 percent of the aggregate of all AmeriCorps member service hours in your program, as reflected in the member enrollments in the National Service Trust, may be spent in education and training activities, unless AmeriCorps grants a waiver under paragraph (c) of this section.

\* \* \* \* \*

(c) AmeriCorps may waive the limit in paragraph (a) of this section to allow up to 50 percent of the aggregate of all AmeriCorps member service hours in your program to be spent in education and training activities if your program:

- (1) Is a Registered Apprenticeship program;
- (2) Is a job training or job readiness program;
- (3) Includes activities to support member attainment of a GED or high school diploma or occupational, technical, or safety credentials; or
- (4) Primarily enrolls economically disadvantaged AmeriCorps members and employs a program design that also includes soft skills or life skills development.

## **PART 2521 - ELIGIBLE AMERICORPS SUBTITLE C PROGRAM**

### **APPLICANTS AND TYPES OF GRANTS AVAILABLE FOR AWARD**

6. The authority for part 2521 continues to read as follows:

Authority: 42 U.S.C. 12571-12595

7. Amend § 2521.5 by adding in alphabetical order the definition “AmeriCorps” to read as follows:

#### **§ 2521.5 What definitions apply to this part?**

*AmeriCorps* means the Corporation for National and Community Service, established pursuant to section 191 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12651, which operates as AmeriCorps.

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#### **§§ 2521.10 through 2521.95 [Amended]**

8. In §§ 2521.10 through 2521.95, remove the words “the Corporation” and add in their place the word “AmeriCorps”.

9. In §§ 2521.10 through 2521.95, remove the word “Corporation” and add in its place the word “AmeriCorps”.

10. In § 2521.60, revise the introductory text, paragraph (a)(1), and paragraph (b) to read as follows:

**§ 2521.60 What will my share of program costs be?**

Except as provided in paragraph (b) of this section, if your program continues to receive funding after an initial three-year grant period, you must continue to meet the minimum requirements in § 2521.45 of this part. In addition, your required share of program costs, including member support and operating costs, will incrementally increase each grant period to a 50 percent overall share by the sixth grant period and beyond (sixteenth year and any year thereafter that you receive a grant), without a break in funding of five years or more. A 50 percent overall match means that you will be required to match \$1 for every \$1 you receive from the Corporation.

(a) \*\*\*

(1) Subject to the requirements of § 2521.45 of this part, and except as provided in paragraph (b) of this section, your overall share of program costs will increase as of the fourth consecutive year that you receive a grant, according to the following timetable:

Timetable for Minimum Organization Share

	First grant period: Years 1-3 (percent)	Second grant period: Years 4-6 (percent)	Third grant period: Years 7-9 (percent)	Fourth grant period: Years 10- 12 (percent)	Fifth grant period: Years 13-15 (percent)	Sixth grant period and beyond: Years 16
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						and beyond (percent)
Minimum member support	15	15	15	15	15	15
Minimum operating costs	33	33	33	33	33	33
Minimum overall share	24	28	32	38	44	50

\* \* \* \* \*

(b) *Alternative match requirements:* If your program is unable to meet the match requirements set forth in paragraph (a) of this section and is located in a rural or a severely economically distressed community, you may apply to AmeriCorps for a waiver that would decrease the level of your required match.

\* \* \* \* \*

11. In § 2521.70 revise paragraphs (b) and (c) to read as follows:  
**§ 2521.70 To what extent may AmeriCorps waive the matching requirements in §§ 2521.45 and 2521.60 of this part?**

\* \* \* \* \*

(b) If you are requesting a waiver, you must demonstrate:

(1) Initial difficulties in the development of local funding sources during the first three years of operations; or

(2) An economic downturn, the occurrence of a natural disaster, or similar events in the service area that severely restrict or reduce sources of local funding support; or

(3) The unexpected discontinuation of local support from one or more sources that a project has relied on for a period of years; or

(4) Organizational revenue of less than \$500,000.

(c) You must provide with your waiver request:

(1) A description of the efforts you have made to raise matching resources; and

(2) A request for the specific amount of match you are asking AmeriCorps to waive; and

(3) A budget and budget narrative that reflect the requested level in matching resources.

## **PART 2522 - AMERICORPS PARTICIPANTS, PROGRAMS, AND APPLICANTS**

12. The authority for part 2522 continues to read as follows:

Authority: 42 U.S.C. 12571-12595; 12651b-12651d; E.O. 13331, 69 FR 9911, Sec. 1612, Pub. L. 111-13.

13. Amend § 2522.10 by adding in alphabetical order the definition “AmeriCorps” to read as follows:

### **§ 2522.10 What definitions apply to this part?**

*AmeriCorps* means the Corporation for National and Community Service, established pursuant to section 191 of the National and Community Service Act of 1990, as amended, 42 U.S.C. 12651, which operates as AmeriCorps.

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**§§ 2522.100 through 2522.950 [Amended]**

14. In §§ 2522.100 through 2522.950, remove the words “the Corporation” and add in their place the word “AmeriCorps”.

15. In §§ 2522.100 through 2522.950, remove the word “Corporation” and add in its place the word “AmeriCorps”.

16. In §§ 2522.100 through 2522.950, remove the words “the Corporation’s” and add in their place the word “AmeriCorps”.

17. Revise § 2522.235 to read as follows:

**§ 2522.235 Is there a limit on the number of terms an individual may serve in an AmeriCorps State and National program?**

The terms an individual may serve in an AmeriCorps State and National program are limited to the number of terms needed to attain the aggregate value of two full-time education awards.

18. In § 2522.240, revise paragraph (a) to read as follows:

**§ 2522.240 What financial benefits do AmeriCorps participants serving in approved AmeriCorps positions receive?**

(a) *AmeriCorps education awards.* An individual serving in an approved AmeriCorps State and National position may receive an education award from the National Service Trust upon successful completion of their terms of service as defined in § 2522.220, consistent with the limitations in § 2525.50.

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**§ 2522.510 [Amended]**

19. In § 2522.510, remove the words “a Corporation” and add in its place the words “an AmeriCorps”.

**Fernando Laguarda,**

*General Counsel.*

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